

**REMARKS**

Claims 1-7, 9 10, and 16 are all the claims pending in the present application, new claim 16 having been added as indicated herein. In summary, the Examiner maintains the previous arguments and adds new arguments in the *Response to Arguments* section of the Office Action, to support the rejections of the claims. Specifically, claims 1-3, 5-7, 9, and 10 remain rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nelson et al. (U.S. Patent No. 5,568,641) in view of Abgrall. Claim 4 remains rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nelson and Abgrall, and further in view of Kurihara (JP 411328040A).

§ 103(a) Rejections (Nelson/Abgrall) - Claims 1-3, 5-7, 9, and 10

Claims 1-3, 5-7, 9, 10, 14, and 15 are rejected based on the reasons set forth on pages 2-7 of the Office Action, and the Examiner responds to previous arguments regarding these claims in the *Response to Arguments* section of the Office Action.

Applicants maintain the previously submitted argument that neither of the applied references, either alone or in combination, discloses or suggests at least, “a conditional access system (CAS) for verifying whether the network device has authority to upgrade the software,” as recited in claim 1 and similarly recited in independent claims 7 and 9. Applicants previously pointed out that, in the previous Office Action, the Examiner alleges that Nelson satisfies the above-quoted feature without providing support in Nelson for this assertion. In the present Office Action, the Examiner now cites col. 4, lines 1-7 of Abgrall as allegedly satisfying the above-quoted feature. However, Abgrall only discusses that a program contained in a software module allows a user to download a second software module. There is no teaching or suggestion of a CAS for verifying whether the network device has authority to upgrade the software. The only authorization discussed in Abgrall is user authorization.

Further, Applicants maintain the previously submitted arguments that one of ordinary skill in the art would not have been motivated to combine the teachings of Nelson with those of Abgrall, as these two applied references are directed to two different inventions. *See page 7 of Response dated June 20, 2007.*

Yet further, Applicants previously argued that the applied references do not disclose or suggest, “a first memory for storing data necessary for operating the network device,” and a separate “second memory for storing information transferred through the network,” as recited in claim 1. *See page 7 of June 20<sup>th</sup> Response.* In response, the Examiner alleges:

...Examiner has reviewed the claim language change in light of Applicant's original specification and claim language. Examiner has reviewed claim rejections and applied prior art as per Office Action dated 03/20/2007. Examiner has further searched for the limitation and found the current applied prior art, i.e. Nelson, is still applicable. The claim rejection above is updated to reflect Applicant's claim changes. Nelson has shown (Abstract) erasable/writable blocks of a flash EEPROM, (col. 2, lines 22-40) different blocks of EEPROM as primary and alternate book blocks and (Fig. 1 A-1B and 2) blocks selected via DECODE, i.e. blocks are memory units as recited in claim 1. Similar arguments and responses exist in item b, section 8 of Office Action dated 03/20/2007.

In response, Applicants submit that the Examiner has only argued that there are different blocks that constitute a single memory unit 10 in Nelson. The Examiner has not demonstrated that there is a second memory unit that is a separate unit from the first memory unit. Nelson only appears to disclose a single memory unit 10.

Yet further, Applicants submit that the applied references do not disclose or suggest at least, “wherein the monitoring means further monitors whether at least one failure occurs in the network,” as recited in amended claim 1.

With respect to dependent claims 2, 3, 5, and 6, Applicants submit that these claims are patentable at least by virtue of their dependencies from independent claim 1. Further, with respect to claim 2, Applicants maintain the previously submitted arguments.

Applicants submit that independent claims 7 and 9 are patentable at least based on reasons similar to those set forth above with respect to claim 1. Applicants maintain that dependent claim 10 is patentable at least by virtue of its dependency from independent claim 9.

Further, with respect to claim 10, Applicants previously argued that Nelson does not disclose or suggest at least, "wherein the at least one failure is a failure in the network device which is checked during the erasing and storing steps," as recited in claim 10. *See pages 8-9 of June 20<sup>th</sup> Response*. In the *Response to Arguments* section of the present Office Action, the Examiner simply refers to his previous arguments in the previous Office Action; Applicants maintain the previous arguments with respect to claim 10.

At least based on the foregoing, Applicants maintain that claims 1-3, 5-7, 9 and 10 are patentably distinguishable over the applied references Nelson and Abgrall, either alone or in combination.

§ 103(a) Rejections (Nelson/Abgrall/Kurihara) - Claim 4

Applicants maintain that claim 4 is patentable at least by virtue of its dependency from independent claim 1. Kurihara does not make up for the deficiencies of Nelson and Abgrall.

New Claim

Applicants add new claim 16 to provide a varying scope of coverage. Applicants submit that this new claim is patentable at least by virtue of its dependency from independent claim 7.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

AMENDMENT UNDER 37 C.F.R. § 1.114(c)  
Application No.: 10/046,912

Attorney Docket No.: Q67327

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

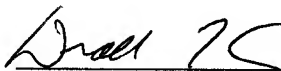
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**23373**

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